

## **REMARKS**

This is a full and timely response to the final Office Action mailed on August 8, 2007. Through this response, Applicants have amended claims 1, 23, 26, and 35. Reconsideration and allowance of the application and pending claims 1-3, 5-6, 8-24, 26, 28-31, and 33-38 is respectfully requested.

### **I. Claim Rejections - 35 U.S.C. § 103(a)**

#### **A. Rejection of Claims**

Claims 1-3, 5-6, 8-10, 14-22, 26, 28-31, 33, and 36-38 have been rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,088,722 to Herz ("Herz") in view of U.S. Patent Publication No. 2002/0073425 to Arai ("Arai") and U.S. Patent No. 6,192,340 to Abecassis ("Abecassis"). Claims 11-13 and 34-35 have been rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Herz in view of Arai and Abecassis and further in view of U.S. Patent No. 6,216,264 to Maze ("Maze"). Claim 23 has been rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Herz in view of Arai and U.S. Patent No. 6,441,832 to Tao ("Tao") and Abecassis in view of U.S. Patent No. 4,393,502 to Tanaka et al ("Tanaka"). Claim 24 has been rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Herz in view of Arai and Abecassis and further in view of U.S. Patent No. 5,729,280 to Inoue ("Inoue"). Applicants respectfully traverse these rejections, where they have not been rendered moot through amendment, as set forth below.

#### **B. Discussion of the Rejection**

The M.P.E.P. § 2100-116 states:

Office policy is to follow *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), in the consideration and determination of obviousness under 35 U.S.C. 103...the four factual inquires enunciated therein as a background for determining obviousness are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

In the present case, it is respectfully submitted that a *prima facie* case for obviousness is not established using the art of record.

#### **Independent Claim 1**

Amended Claim 1 recites (emphasis added):

1. A media system, comprising:
  - a memory to store media information characterizing media instances to be provided among a plurality of media streams; and
  - a processor configured to execute logic to:
    - provide a user interface, wherein the user interface is configured as a plurality of screen displays, to enable a user to create, define and modify a media presentation of the media instances from the plurality of media streams, in advance of a time corresponding to the media presentation, by **ranking media information categories and by selecting and ranking desired media information within at least one of the media information categories;**
    - continually and automatically segue media stream changes among the plurality of the media streams containing the media instances;
    - dynamically extract from the segued media streams the media instances to present a user defined media presentation according to a defined order of the media instances based on the ranked media information categories and the selection and ranking of the desired media information within the at least one of the media information categories; and
    - segueing to an upcoming media instance before an end time of a ranked in-progress media instance if the upcoming media instance is of higher rank than the ranked in-progress media instance and if the upcoming media instance has a start time that is before the end time of the ranked in-progress media instance.**

Applicants have amended claim 1, and thus believe the rejection to be rendered moot. Additionally, Applicants respectfully submit that *Herz* in view of *Arai* and *Abecassis* fails to disclose, teach, or suggest at least the above emphasized claim features. The Office Action admits on page 3-4 that *Herz* does not disclose automatically and dynamically segueing between media instances, but the that this feature is disclosed in *Arai* in paragraphs 102, 107, and 109-110, and figs. 3-4.

Paragraph 110 of *Arai* states:

According to the program guide shown in FIG. 4, the tuning switch 33 immediately tunes in to the program 1 of the service channel "Nihon Maru", and subsequently at 14:00 tunes in to program 5 of the service channel "Fuji Sun".

Paragraph 111 of *Arai* further states:

In the algorithm of the program information search, the search is performed only for the programs whose start times are equal to or later than the end time of the program added to the list of the searched program information. For example, when a program ending at 14:00 is added to the list of the searched program information, no search is performed for all of programs having start times earlier than 14:00 and the search is performed for the programs having start times equal to or later than 14:00.

Even assuming, *arguendo*, that *Arai* discloses ranking of media instances and segueing between them, the segueing mechanism of *Arai* does not rank media information categories and select and rank desired media information within at least one of the media information categories, and segue to an upcoming media instance before an end time of a ranked in-progress media instance if the upcoming media instance is of higher rank than the ranked in-progress media instance and if the upcoming media instance has a start time that is before the end time of the ranked in-progress media instance, as is recited in claim 1. In *Arai*, a media instance is ranked by being added to "my channel". An upcoming media instance with a start time that is before an end time of a ranked media instance is not searchable by the user of *Arai*, so such an upcoming media instance could not be added to "my channel". Therefore, the system of *Arai* can not segue from a ranked in-progress media instance to an upcoming media instance before the end time of the ranked in-progress media instance. *Abecassis* does not remedy this deficiency. Accordingly, for at least these reasons, Applicants respectfully request that the rejection to independent claim 1 be withdrawn.

Because independent claim 1 is allowable over that *Herz* in view of *Arai* and *Abecassis*, dependent claims 2-3, 5-6, 8-10, and 14-22 are allowable as a matter of law for at least the reason that the dependent claims 2-3, 5-6, 8-10, and 14-22 contain all

elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

### Independent Claim 26

Amended Claim 26 recites (emphasis added):

26. A method for presenting a user-defined media presentation, the method comprising:

providing a user interface, wherein the user interface is configured as a plurality of screen displays, to a user to receive user definition of media information that characterizes media instances for the media presentation by providing a plurality of screen displays for receiving user input that defines the order of the media instances within the media presentation with increasing detail by, in advance of a time corresponding to the media presentation, ***ranking media information categories and by selecting and ranking desired media information within at least one of the media information categories;***

storing the user-defined media information in a data structure;

searching for the media corresponding to the user-defined media information among a plurality of media streams;

automatically segueing media stream changes among the plurality of media streams to present the media instances; and

dynamically extracting from the segued media streams the media instances corresponding to the user-defined media information for presentation in the defined order, the defined order based on the ranked media information categories and the selection and ranking of the desired media information within the at least one of the media information categories; and

***segueing to an upcoming media instance before an end time of a ranked in-progress media instance if the upcoming media instance is of higher rank than the ranked in-progress media instance and if the upcoming media instance has a start time that is before the end time of the ranked in-progress media instance.***

Applicants have amended claim 26, and thus believe the rejection to be rendered moot. Additionally, Applicants respectfully submit that *Herz* in view of *Arai* and *Abecassis* fails to disclose, teach, or suggest at least the above emphasized claim features for the reasons discussed above in regards to independent claim 1. Accordingly, Applicants respectfully request that the rejection to independent claim 26 be withdrawn.

Because independent claim 26 is allowable over *Herz* in view of *Arai* and *Abecassis*, dependent claims dependent claims 28-31, 33, and 36-38 are allowable as a matter of law.

**Claims 11 – 13 and 34 - 35**

As explained above, Applicants submit that independent claims 1 and 26 are allowable over *Herz* in view of *Arai* and *Abecassis*. Applicants respectfully submit that *Maze* fails to remedy the deficiencies of *Herz*, *Arai*, and *Abecassis*. Thus, Applicants respectfully submit that claims 1 and 26 are allowable over *Herz*, *Arai*, *Abecassis*, and *Maze*. Further, Applicants respectfully submit that for at least the reasons that claims 11-13 and 34-35 incorporate allowable claim features of their respective base claims, claims 11-13 and 34-35 are allowable as a matter of law. Hence, Applicants respectfully request that the rejection be withdrawn.

**Claim 23**

As explained above, Applicants submit that independent claim 1 is allowable over *Herz* in view of *Arai* and *Abecassis*. Applicants respectfully submit that *Tao* and *Tanaka* fail to remedy the deficiencies of *Herz*, *Arai*, and *Abecassis*. Thus, Applicants respectfully submit that claim 1 is allowable over *Herz*, *Arai*, *Abecassis*, *Tao*, and *Tanaka*. Further, Applicants respectfully submit that for at least the reason that claim 23 incorporates allowable claim features of its respective base claim, claim 23 is allowable as a matter of law. Hence, Applicants respectfully request that the rejection be withdrawn.

**Claim 24**

As explained above, Applicants submit that independent claim 1 is allowable over *Herz* in view of *Arai* and *Abecassis*. Applicants respectfully submit that *Inoue* fails to remedy the deficiencies of *Herz*, *Arai*, and *Abecassis*. Thus, Applicants respectfully submit that claim 1 is allowable over *Herz*, *Arai*, *Abecassis*, and *Inoue*. Further,

Applicants respectfully submit that for at least the reason that claim 24 incorporates allowable claim features of its respective base claim, claim 24 is allowable as a matter of law. Hence, Applicants respectfully request that the rejection be withdrawn.

### CONCLUSION

Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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David Rodack  
Registration No. 47,034

**THOMAS, KAYDEN,  
HORSTEMEYER & RISLEY, L.L.P.**  
Suite 1750  
100 Galleria Parkway N.W.  
Atlanta, Georgia 30339  
(770) 933-9500